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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,674	02/22/2002	Narihiro Omoto	16869S-044300US	3124

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EXAMINER
ZURITA, JAMES H

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/082,674	OMOTO ET AL.
	Examiner	Art Unit	
	James H. Zurita	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 May 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>4 and 13</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>4 and 13</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Prosecution History

On 22 February 2002, applicant filed the instant application. On 28 November 2002, the application was published on as PG-PUB 20020178081. The application claims priority to Application 2001-045945, filed on 22 February 2001 in Japan.

On 8 March 2005, claims 1-8 were rejected as anticipated by Ginter (5,892,900).

On 6 June 2005, applicant amended claim 4, cancelled claims 1-3, 5-8 and added claims 9-12.

On 6 September 2005, claims 4 and 9-12 were rejected as anticipated by Ginter.

On 13 December 2005, applicant requested continued examination and included an amendment to the claims.

On 24 February 2006, Claims 4, 9-12 were rejected as anticipated by Ginter.

On 3 May 2006, applicant filed a response.

Response to Amendment

On 3 May 2006, applicant amended claim 4, cancelled claims 9-12 and added claim 13. Claims 4 and 13 are pending and will be examined.

Response to Arguments

Applicant's arguments filed 3 May 2006 have been fully considered.

Rejections of claims 9-12 are moot in view of cancellation of said claims.

In claim 9, the term utilization category will be interpreted as referring to application category 206, Fig. 2 Prior art will be interpreted as disclosing the limitation where prior art discloses applications that perform document preparation, spreadsheet, search, editing, groupware, for example. See Ginter, Col. 310, lines 24-31, searches by types, categories, characteristics of content), spreadsheets, word processing, etc.

Claim Rejections - 35 USC § 112

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 13 includes the limitation:

> store a first execution end time for the first application and a second execution end time for the second application into the first and second utilization time management files, respectively when detecting a disconnection with the user terminal;

Applicant's discloses:

> Once the user l*ogs out,* the line is disconnected and the utilization end time of the application A is also recorded. [paragraph 0035]

For purposes of Examination, the limitation will be interpreted as referring to a logout procedure.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4 and 13 are rejected under 35 U.S.C.102(e) as being anticipated by

Ginter et al. (US 5892900).

Ginter discloses system, methods and computer-readable storage media for

monitoring the execution of software applications in a centralized electronic hub

(applicant's electronic mall). Ginter's electronic hub includes storage for software that

may be registered by a **plurality of content providers** (applicant's plurality of

application systems providers/ASP). Ginter discloses charging users for usage of the

various software according to various schemes, including applicant's methods of

recording start and end time of utilization. Ginter discloses settling accounts, such as

by paying content providers for use of their software.

As per claim 13, Ginter discloses a electronic mall system comprising:

an application service provider registration **database** (Col. 142, lines 42-64, Col.

168, lines 1-67) operable to store

information for a plurality of application service providers (Col. 335, line 53-Col.

336, line 19),

utilization charge rates for a plurality of applications provided by the plurality of

application service providers (see, for example, at least Col. 12, lines 6-10, Col. 57,

lines 9-33, Col. 332, line 67-Col. 333, line 36), and

utilization categories to which the plurality of applications belong (see, for

example, at least Col. 310, lines 24-31, searches by types, categories, characteristics of

content);

a reception interface (as in Col. 19, lines 29-59, for example) operable to receive

an application search request form a user terminal via a network (Fig. 1, for example),

the application search request specifying one of the utilization categories (Col. 310,

lines 24-31); and

a processing unit (Col. 83, lines 21-49, for example) operable to

search the application service provider registration database based on the

utilization category specified in the received application search request (see, for

example, at least Col. 310, lines 24-31);

send information to the user terminal to display a selection screen for

selecting at least one of the applications located during the search step (see, for

example, references to selection of content of certain types via a user interface,

as in Col. 263, lines 26-37, Col. 325, lines 5-23)

execute a first application and store a first execution start time into a first

utilization time management file associated with the first application when

receiving a first application execution request from the user terminal;

execute a second application and store a second execution start time into

a second utilization time management file associated with the second application

when receiving a second application execution request from the user terminal;

Ginter discloses executing multiple applications and storing start time and end

time for each, as in Col. 7, lines 13-33, Col. 151, lines 37-57.

store

a first execution end time for the first application and a second execution end time for the second application into the first and second utilization time management files, respectively when detecting a disconnection with the user terminal (see, for example, references to logout procedures, as in Col. 103, line 46-67).

a first execution time [Ginter's duration, length of use] for the first application from the first execution start time and the first execution end time stored in the first utilization time management file and

a second execution time [Ginter's duration, length of use] for the second application from the second execution start time and the second execution end time stored in the second utilization time management file;

calculate a utilization charge for each application service provider and a total utilization charge for a user of the user terminal using the first and second execution times and the utilization charge rates in the application service provider registration database. In Ginter, see also duration calculation, including starting times and stopping times, as in Col. 336, lines 20-48. Duration/length of time, which need a first point (start time) and a second point (end time), as in Col. 136, lines 37-49. See also calculation of charges, as in Col. 332, line 57-Col. 333, line 36.

perform a settlement process for each application service provider and the user (see, for example, at least Col. 336, lines 20-48 and other references to receiving payment).

As per claim 4, Ginter discloses the system of claim 9 further comprising:

means for executing an application in benchmark mode. The term benchmark is interpreted to read on guest ID, temporary ID, trial subscription. See, for example, at least references to trial subscription, Col. 215, lines 6-42.

benchmark means for preventing the utilization charge from being levied for an application executed for not longer than a predetermined time by the user desirous of checking the performance of said application. See, for example, at least Col. 140, lines 10-61.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Zurita
Primary Examiner
Art Unit 3625
20 July 2006